

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
ST. PAUL, MINNESOTA 55155
WEDNESDAY, MARCH 26, 2014**

BOARD MEMBERS PRESENT:

Joe Collins, Jack Ditmore, Chris Elvrum, MDH; Rebecca Flood, MPCA; Christy Jo Fogarty, Sandy Hooker, Paul Langseth, Tom Loveall, Brian Napstad, Judy Ohly, Dave Schad, DNR; Tom Schulz, Faye Sleeper, MES; Steve Sunderland, Gerald VanAmburg

BOARD MEMBERS ABSENT:

Gene Tiedemann
Matt Wohlman, MDA

STAFF PRESENT:

Mary Jo Anderson, Tim Dykstal, Dan Fabian, Travis Germundson, Tom Gile, Keith Grow, Jim Haertel, John Jaschke, John Overland, Mary Peterson, Ron Shelito, Sarah Strommen, Dave Weirens, Marcy Westrick, Brad Wozney

OTHERS PRESENT:

Jeff Lewis, RRBC
Don Baloun, NRCS
Jill Crafton, Riley Purgatory Bluff Creek WD

Chair Napstad called the meeting to order at 9:05 a.m.

PLEDGE OF ALLEGIANCE

**** 14-11 ADOPTION OF AGENDA** – Moved by Paul Langseth, seconded by Joe Collins, to adopt the agenda as presented. *Motion passed on a voice vote.*

**** 14-12 MINUTES OF JANUARY 22, 2014 BOARD MEETING** – Moved by Judy Ohly, seconded by Steve Sunderland, to approve the minutes of January 22, 2014 as circulated. *Motion passed on a voice vote.*

CONFLICT OF INTEREST DECLARATION - Chair Napstad explained that the conflict of interest declaration process is being used today on two agenda items: Targeted Water Demonstration Program; and Red River Basin Commission Annual Report and Funding Request.

Chair Napstad read the statement: *“A conflict of interest, whether actual, potential, or perceived, occurs when someone in a position of trust has competing professional or personal interests and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to declare conflicts of interest they may have regarding today’s business.”*

RECOGNITION OF BOARD MEMBER – John Jaschke acknowledged Paul Langseth’s service as a BWSR board member SWCD representative. John and Chair Napstad presented Paul with a Distinguished Service Award plaque for his dedicated service to Minnesota’s water and soil resources from 2006 – 2014. Chair Napstad thanked Paul for his service and membership on the Board. Paul stated that he enjoyed serving on the Board.

INTRODUCTION OF NEW BWSR EMPLOYEE – Jim Haertel introduced Dan Fabian, Board Conservationist in the metro region. Chair Napstad welcomed Dan to BWSR.

Chair Napstad introduced Jill Crafton, newly appointed board member, watershed representative. Jill’s appointment is effective March 28, 2014.

REPORTS

Chair’s Report – Brian Napstad reported that he attended the EQB meeting on March 19th in Rochester. The meeting was held in Rochester to accommodate those in the area affected by the silica sand issues and to address their concerns. Chair Napstad stated that Legislation mandated EQB to develop model standards and criteria that may be used by local units of government in developing local ordinances regarding the mining, processing, and transporting of silica sand. The document *‘Tools to Assist Local Governments in Planning for and Regulating Silica Sand Projects’* was prepared with assistance from several state agencies, including: Department of Natural Resources, Pollution Control Agency, Department of Health, Department of Transportation, Department of Agriculture, and Environmental Quality Board. EQB thanked all contributing agencies, including BWSR, that commented on the document. Chair Napstad reported that the EQB unanimously approved the model set of standards document.

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Chair Napstad reported that he attended PROSP Committee meetings, things are progressing well in addressing the difficult task of implementing the One Watershed One Plan.

Administrative Advisory Committee (AAC) – Chair Napstad reported that the AAC met this morning; items discussed included board member appointments, effective March 28, 2014; reappointments of Chair Napstad and Gene Tiedemann. New board members in addition to Jill Crafton, include Neil Peterson, Pennington County Commissioner; Kathryn Kelly, Renville SWCD Supervisor; and Douglas Erickson, non-metro elected city official, Mayor of Bird Island; will be introduced at the April Board meeting. Chair Napstad and John Jaschke will review BWSR Committees; new appointments to committees will be effective in April.

Chair Napstad reported that the Board Tour will be held August 27; the Board meeting on August 28; in the metro area, details to be determined.

Chair Napstad stated that the AAC discussed the Executive Director's performance review by board members using a confidential doodle poll survey with two parts all done electronically. Angie Becker Kudelka will send information to board members via e-mail. Chair Napstad and Vice-Chair VanAmburg will conduct John's performance review. Chair Napstad asked board members to include comments, the review process will remain anonymous and will be due by the end of April.

Chair Napstad reported that the April 23rd Board Meeting will be a shorter meeting, adjourning about 10:30 a.m.; with a workshop on the Nonpoint Priority Funding Plan convening until 2:00 p.m.

Chair Napstad reported that the January 22, 2014 Board meeting minutes are accurate, regarding the issue of the Middle-Snake-Tamarac Rivers Watershed District, the Polk County Board requested the matter be tabled until March 2014. The Board remanded the matter to the Northern Region Committee to hold a public meeting to accept additional testimony and evidence. Due to unanticipated developments the petitioner requested a further delay from March 2014.

Chair Napstad reported that the January 22, 2014 minutes state that the Northern Region Committee would present their recommendation to the Board at the March 26, 2014 meeting regarding the Bois de Sioux Watershed District Plan Amendment. This issue is not on the agenda today due to an unexpected request for a public hearing by the Bois de Sioux Watershed District. Chair Napstad stated that the Board meeting minutes are accurate as of the date of approval.

Executive Director's Report – John Jaschke reviewed information in board members' packets. John reported that EPA and USACoE jointly released a proposed rule to clarify Clean Water Act jurisdiction, effective March 25, 2014, a 90-day public comment period, then agency review, estimating it might take roughly a year before a final rule is issued.

John stated that the updated Board member roster lists new appointments, let Mary Jo Anderson know of any changes to contact information.

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John reported that a meeting with BWSR, DNR, MPCA, MDA, USFWS and USDA will be held on March 28, at 11:00 a.m., to discuss CREP exploration and development. More information will be provided as the effort moves forward.

John provided an update based on a legislative update provided by Sarah Strommen, summarizing major bills and issues BWSR has been working on or tracking.

Outcomes, Substitutions, and Supplements: Last week BWSR's Clean Water Fund programs were the focus of an "Outcomes" hearing in the House Environment, Natural Resources, and Agriculture Finance Committee. While these types of hearings can be a challenge to prepare for, they also provide a good opportunity to showcase the important work we do.

BWSR will be part of a hearing in the House Legacy Committee on "Clean Water Fund Substitutions vs Supplements." BWSR staff highlighted accomplishments (work that has been completed or accelerated as a result of the CWF) and gaps (where demand exceeds dollars available).

Unsession:

HF 2715/SF 2454 - The bill was heard and passed through several committees. This bill is a combined BWSR/PCA/DNR bill that includes the following BWSR items:

- 1) reform and simplification of the process for voluntary consolidation of SWCDs;
- 2) elimination of statutory language related to the State Lakes Board (now an independent 501(c)3 organization);
- 3) elimination of statute referencing the Minnesota River Board (in the process of dissolving);
- 4) repeal of a 2010 Session Law that requires BWSR to send-back a portion of returned cost-share funds (intended to be a 1-time measure but still exists).

HF 1864/SF2289 - This bill repeals the RIM Clean Energy Technical Advisory Committee, which completed its initial charge and is no longer needed.

LCCMR (HF1874/SF1899) - This bill contains funding for three BWSR programs: 1) Conservation Apprenticeship Academy; 2) Phase 2 of the White Cedar Restoration Project; and 3) Drainage Records Modernization. The House bill has already cleared all committees and has been placed on the General Register (ready for floor action). Senate hearings have yet to be scheduled.

LSOHC (HF1926/SF2098) - BWSR has five RIM-related programs funded in this bill: 1) RIM-Wetlands; 2) RIM Buffers; 3) Wild Rice Easements; 4) RIM-Native Prairie Bank Grasslands Program; 5) ACUB. The House bill has cleared all committees and has been placed on the General Register. No hearings have been scheduled in the Senate.

Bonding (HF3250) - Rep. Hausman introduced her bonding bill. It includes \$20 million for RIM and \$5.4 million for the Local Government Road Wetland Replacement Program. This is a good start, but there's still a lot of work to be done due to the fact that the total amount of her bill significantly exceeds the target. While there is no overall bill in the Senate at this time, there may be a hearing on SF705 (Sen. Sparks RIM bonding bill from last year).

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DWG (HF2571/SF2221) - The Drainage Work Group consensus bill has moved quickly through the Senate and the House and is waiting floor action in both bodies.

Conservation Easement Tax Provisions (HF2102/SF1933) - A bill to reinstate valuation reductions for conservation easements was introduced in the House and the Senate. It was heard in the House and anticipated to be included in the House Omnibus Tax bill. Unfortunately, when the Property Tax Division's report came out, that provision was not included. This makes it unlikely that action will be taken to undo last year's law change, but we will continue to work with Senator Skoe on this issue.

WCA - Early in Session Representative Roger Erickson and Senator Skoe introduced WCA-related bills to address concerns over mitigation siting in NE Minnesota. Their proposals differed greatly from the recommendations of the Interagency NE Mitigation Siting Team, and therefore we worked with DNR to offer alternative approaches to Rep. Erickson and Senator Skoe. After much discussion with legislators and stakeholders, there was consensus to not move forward with any legislation this year. A Senate hearing included an overview of the recommendations contained in the Interagency Team's report.

Other - There are numerous other bills which are being tracked, some of the topics include formation of a legislative water commission, creation of a state hydrologist position, biofuels incentives, and prohibition of county commissioners serving as drainage inspectors.

John reported that he and Sarah attended the MAWD Legislative Briefing and Day at the Capitol, March 19-20; and MASWCD Legislative Briefing and Day at the Capitol March 24-25.

Dispute Resolution Committee – Travis Germundson reported there are 11 appeals pending. There has been one new appeal filed since the last report in January; a replacement plan decision in Stearns County. Travis reported that the oldest appeal from 2005, a replacement plan decision by the Rice Creek Watershed District, has withdrawn the appeal.

Grants Program & Policy Committee – Paul Langseth reported that the Grants Program & Policy Committee met on March 13, recommendations are on the agenda later today.

Public Relations, Oversight & Strategic Planning (PROSP) Committee – Jack Ditmore thanked Chair Napstad for his complimentary comments on the work of the PROSP Committee. The Committee met last night, discussion included procedural requirements in pilot projects; policy for water plan extensions; work on formal agreements for planning/implementation phase. Copies of 'One Watershed, One Plan, An evolution of water planning in Minnesota' were distributed. Jack suggested the boundary map be included on the April board meeting agenda. The PROSP Committee will meet on April 22; 5:30- 7:00 PM. Jack thanked Committee members and staff for all their work.

Drainage Work Group – Tom Loveall reported that Drainage Work Group met; appreciated Al Kean's effort in getting information together and through the legislative process.

COMMITTEE RECOMMENDATIONS

Southern Region Committee

Wabasha County Priority Concerns Scoping Document (PCSD) – Paul Langseth reported that the Southern Region Committee met on March 12, 2014, discussed the content of the PCSD; state agency review comments on the PCSD; and recommendations for the content of the final Comprehensive Local Water Management Plan. The state's expectations for the final plan must be sent to Wabasha County. Moved by Paul Langseth, seconded by Chris Elvrum, to approve the

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14-13 Wabasha County Priority Concerns Scoping Document. *Motion passed on a voice vote.*

Audit Committee

Data Practices Policy – Tim Dysktal reported that the Data Practices Policy is needed to comply with the requirements of the Minnesota Government Data Practices Act (MGDPA), which charges government entities to inform the public about the kinds of not public data they collect, keep, and create; to make the data they have accessible to those with a right to have it; and to develop data protection procedures to assure that data on individuals is accurate, complete, current, and secure. The Audit Committee met March 21, 2014, and recommends approval of the Data Practices Policy; approves the designation of the Executive Director as the agency's responsible authority under the MGDPA, and authorizes staff to develop and implement a BWSR Data Practices Manual. Moved by Gerald VanAmburg, seconded by Tom Schulz, to approve the Audit Committee's recommendation. *Motion passed on a voice.*

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14-14

Chair Napstad stated that board members have submitted their completed Conflict of Interest Declaration forms; the documents will be filed for the grant decision items.

Grants Program & Policy Committee

Targeted Watershed Demonstration Program – Paul Langseth reported that the Grants Program and Policy Committee met on March 13, 2014, and explained that on October 23, 2013, the Board adopted resolutions #13-92 which authorizes staff to conduct a Request for Interest for Nominations for the Targeted Watershed Demonstration Program. Marcey Westrick reported nominations were accepted from October 28 through December 13, 2013. Local governments submitted 25 nominations requesting \$46,380,000 in Clean Water Funds. Total available grants funds are \$5 million in FY2014. Marcey presented the scoring guidelines, an overview of applications and proposed funding recommendations. Marcey reported that the Grants Program and Policy Committee reviewed the Targeted Watershed Demonstration Program proposed grant allocations and recommend:

- 1) Approval of the allocation of \$5,705,000 to the top three scored nominations according to the Targeted Watershed Demonstration Program Recommendations and Targeted Water Demonstration Program results.
- 2) Amends Board Resolution 14-05 by eliminating \$907,500 of funding for the following projects: C14-7463(#4) and C14-8176(#6) and distributing this balance to fully fund projects C14-8172(#40) and C14-9086(#41) and partially fund C14-7301(#42).

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14-15 Paul explained that this is a demonstration program and encouraged applications next year for those not accepted this year. Moved Paul Langseth, seconded by Christy Jo Fogarty, to approve the resolution. Discussion followed. Steve Sunderland stated that nominees appreciate the time that BWSR staff took to come out and explain those whose proposals were not funded. Gerald

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VanAmburg complimented staff on the thorough process for the demonstration project. *Motion passed on a voice vote.*

Chair Napstad called for a break in the meeting at 10:40 a.m.; the meeting reconvened at 10:53 a.m..

Chair Napstad stated that board members have submitted their completed Conflict of Interest Declaration forms; the documents will be filed for the grant decision items.

NEW BUSINESS

Red River Basin Commission (RRBC) Annual Report and Funding Request – Jeff Lewis reported that he was hired as executive director of the Red River Basin Commission (RRBC) on January 1, 2014; replacing Lance Yohe, who retired. Jeff explained that the RRBC is an international organization that receives financial support from the states of North Dakota, Minnesota, and the province of Manitoba. BWSR is the Minnesota state agency that reviews and approves the annual reports and work plans of the RRBC. Jeff presented the RRBC's 2013 annual report, 2014 work plan and budget. Jeff also presented a project summary of nutrient capture through water management and biomass harvesting of cattails. John explained the funding from government sources, this is a pass through appropriation; when approved, the Minnesota grant is processed by BWSR. Moved by Faye Sleeper, seconded by Paul Langseth, to approve the RRBC 2013 annual report, 2014 work plan, and budget. Tom Schulz suggested an amendment to the motion: approval be contingent upon correcting the numerical discrepancy in the budget summary. Faye Sleeper and Paul Langseth accepted the amendment to the motion. Jeff Lewis will provide the corrected budget summary to John Jaschke, with a signature page to be signed by John for approval. Discussion followed. *Motion passed on a voice vote.*

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14-16

Farm Bill Conservation Title Summary – Don Baloun, NRCS State Conservationist, reported that NRCS is running in a deficit; there is an indication that the funding will be coming; looking at consolidation of some NRCS offices. Don stated that the Farm bill is very promising for conservation in Minnesota; sign-up is on hold; awaiting new Farm Bill, hopeful by May there will be confirmed information. Don distributed and presented information on the 2014 Farm Bill, and Regional Conservation Partnership Program (RCP). Chair Napstad stated that the Farm Bill provides opportunities. Discussion followed. Chair Napstad thanked Don for his informative presentation.

Chair Napstad stated that Dave Weirens needs to attend a legislative hearing; his presentation on FY2014 Clean Water Fund Outcomes will planned to be on the agenda at the April Board meeting.

AGENCY REPORTS

Minnesota Department of Natural Resources (DNR) – Dave Schad reported that DNR is now involved in groundwater efforts statewide. It's a learning process, meetings are being held to discuss planning work, and how to handle groundwater allocations in the future. Dave stated that it's a complicated endeavor as legislation a few years ago limits groundwater appropriations affecting trout streams and fens. DNR is working with new requests for wells in close proximity of streams and fen, and owners in the vicinity to determine thresholds and allocate groundwater

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based on approach. Dave reported that MPR has a series on groundwater issues in the metro area; Park Raids; and the Cold Spring Brewery, impacting a trout stream; a link between landuse, groundwater and surface water quality. Agencies are working together with the City of Cold Spring on this effort. Discussion followed.

Minnesota Extension Service – Faye Sleeper reported that “The Cost of Climate Change in Minnesota” premieres Sunday, April 6 at 7:00 PM on Twin Cities Public Television. The half hour production features Bob Johnson of the Insurance Federation of Minnesota, Mark Seeley of the University of Minnesota and Paul Douglas of WeatherNationTV. This was recorded at the Minnesota Climate Adaptation Conference on November 7, 2013.

Faye was happy to announce that her co-chair of the Minnesota Water Conference this year is BWSR’s Brad Wozney. The Minnesota Water Conference will be held October 14-15, 2014, at the St. Paul RiverCenter.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that MAT is busy at the State Capitol lobbying township issues during the legislative session. MAT is conducting a three-week training session statewide for township officers. Chair Napstad suggested updating the MAT website to include a link to townships.

UPCOMING MEETINGS

- BWSR Board Meeting & Workshop – April 23, 2014, in St. Paul

****** Moved by Paul Langseth, seconded by Christy Jo Fogarty, to adjourn the meeting at 12:17 p.m.
14-17 *Motion passed on a voice vote.*

Respectfully submitted,



Brian Napstad
Chair